IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 2082 of 2005

Between:

1 P. Sreedhar Reddy S/o P. Srikantha Reddy, R/o Cooperative Colony, Cuddapah Town & District
2 Gajjal Vijaya Bhasakar Reddy S/o G. Sidda Reddy, R/o Pabbapuram Post & Village, C.K. Dinne Mandal, Cuddapah District.
3 Gunikuntla Gangi reddy S/o G. Yella Reddy, R/o Pabbapuram Post & Village, C.K. Dinne Mandal, Cuddapah District.
4 A. Venkataiah S/o Chinna Venkataiah, R/o Pabbapuram Gram Panchayat C.K. Dinne Mandal, Cuddapah District

..... PETITIONERS

AND

1 The Government of Andhra Pradesh rep by Principal Secretary, Road & Buildings, Secrtariat, Hyderabad
2 The District Collector, Cuddapah, Cuddapah District
3 The Superintending Engineer, Roads& Buildings, Cuddapah, Cuddapah District
4 The Mandal Revenue Officer, CK. Dinne, CK. Dinne Mandal, Cuddapah District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction on the part of the 2nd respondent in not

acting on the representation made by the 4th petitioner dated 01-02-2005 as arbitrary, illegal and violative of the Fundamental Rights guaranteed to the petitioners under Articles 14, 19 and 21 of the Constitution of India and consequentially direct the respondents not to form outer Ring Road across the Pabbapuram Rain Water Storage Tank, situated in an extent of Ac.42-62 cents in Sy. No. 118 of Pabbapuram Village, C.K. Dine Mandal, Kadapa District and pass such other order or orders as are deemed fit and proper in the circumstnaces of the case.

Counsel for the Petitioners : MR.V.R.REDDY KOVVURI

Counsel for the Respondents No.1 & 3 : GP FOR IRRIGATION & COMMAND AREA DEVELOPMENT

Counsel for the Respondents No.2 & 4 : GP FOR REVENUE

The Court made the following :

ORDER : (Per Hon'ble Bilal Nazki, HACJ)

Heard learned Counsel for the parties.

This writ petition has been filed seeking a direction to the respondents not to form outer ring road across the Pabbapuram Rain Water Storage Tank in Survey No.118 of Pabbapuram village. The case of the petitioners is that they are Ayacutdars of Pabbapuram Rain Water Storage Tank. They state that they are dependent on agriculture and for that purpose, they are dependent on the tank and if the outer ring road is formed, there would be no water in the tank.

The Sarpanch of the village had also made a representation on 01.02.2005, but that representation has not been considered.

In the counter affidavit it is denied that the tank was a water source. It is stated that the tank bund was breached in the year 1950 and has not been renovated so far. It is also stated that no water from the tank is used for any agricultural purpose. However, in para 5 of the counter, it has been stated;

> *"The total length of the tank bund is 1448 mt. As per the survey conducted, the bye pass road is passing through the tank such that the tank bund length on Eastern side of the proposed road is 228 mt. and the tank bund length on Western side of the proposed road is 1200 mt. Thus the large extent of the tank on Western side of the proposed road remains in tact and small portion of the tank on the Eastern side will be separated by the road. The department under takes that the sufficient precaution will be taken to provide adequate number of culverts/CD works on the road to facilitate continued inflows to the tank from Eastern side of the proposed road and also to allow spreading of water to the Eastern side of the road. Hence in the event of restoration of tank which was breached long ago, the water storage and inflows to the tank will not be affected by the formation of the road. The height of the road formation will also be kept above tank bund level to facilitate full storage in the tank after restoration. The alignment for the proposed bye pass road is decided keeping in view of the technical requirements only and not on any other consideration."*

Since the respondents are not using the tank, but at the same time they are trying to create a bye pass without disturbing the tank, whether it has water or not, becomes immaterial. Therefore we do not think that it is necessary for this Court to give directions to stop the construction of outer ring road, which definitely is in public interest.

Writ petition is accordingly dismissed. No costs.

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BILAL NAZKI, HACJ

5th April 2005.

Dr. G.YETHIRAJULU, J

ajr

To

1 The Principal Secretary to Government of Andhra Pradesh, Road & Buildings,

Secrtariat, Hyderabad.
2 The District Collector, Cuddapah, Cuddapah District
3 The Superintending Engineer, Roads& Buildings, Cuddapah, Cuddapah District
4 The Mandal Revenue Officer, CK. Dinne, CK. Dinne Mandal, Cuddapah District

5 Two C.Cs. to the GP for Irrigation and Command Area Development, High

Court Buildings, Hyderabad (OUT)

6 Two C.Cs. to the GP for Revenue, High Court buildings, Hyderabad (OUT)

7 2 CD copies

8 1 CC to MR.V.R.REDDY KOVVURI

*Form-NIC-OGS/WP{**TRT**}*